

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13

LEGGETT & PLATT, INC. D/B/A FASHION BED GROUP<sup>1</sup>

Employer

and

ANGEL ESTREMER

Petitioner

and

PRODUCTION WORKERS' UNION, LOCAL NO. 10, AFL-CIO

Intervenor

Case 13-RD-2363

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record<sup>2</sup> in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>

3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.<sup>4</sup>

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:<sup>5</sup>

All warehouse and warehouse janitor employees employed by the Employer at its facility currently located at 5950 West 51<sup>st</sup> Street, 6501 West 51<sup>st</sup> Street, and 6500 West 51<sup>st</sup> Street, Chicago, Illinois; but excluding all office and clerical employees, professional employees, technical and administrative employees, supervisors, watchmen and guards as defined in the National Labor Relations Act.

**DIRECTION OF ELECTION\***

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility

period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Production Workers' Union, Local No. 10, AFL CIO.**

#### LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the names and addresses of all of the eligible voters, shall be filed by the Employer with the undersigned Regional Director who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in **Suite 800, 200 West Adams Street, Chicago, Illinois 60606** on or before May 9, 2001. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

#### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court Building, 1099-14th Street, N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by May 16, 2001.

**DATED** May 2, 2001 at Chicago, Illinois.

/s/ Harvey A. Roth

Acting Regional Director, Region 13

\*/ The National Labor Relations Board provides the following rule with respect to the posting of election notices:

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Director in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objection to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Director at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

1/ The names of the parties appear as amended at the hearing.

2/ The arguments advanced by the parties at the hearing have been carefully considered.

3/ The Employer is a corporation engaged in operating a bedding products distribution warehouse.

4/ The Intervenor is the incumbent representative of the employees in the unit covered by the instant petition, and it intervened in this proceeding based upon its collective bargaining agreement with the Employer. No party to this proceeding contends there is a contract bar to the processing of the instant petition.

5/ The unit found appropriate herein is in keeping with the stipulation of the parties and is in accord with the description of the appropriate unit in the collective bargaining agreement between the Employer and the Intervenor.

No party raised any issue during the hearing which is stated in the record. Accordingly, I will direct the election and select the date, time and place for the election to be held. Under Board law, the selection of the date, time and place of an election is within the discretion of the Regional Director. *Halliburton Services*, 265 NLRB 1154 (1982). The Regional Director will determine these administrative matters after the issuance of the instant Decision and Direction of Election.

393-0167; 370-0717; 370-1425; 370-2125

No issues raised